

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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FAIR ISAAC CORPORATION,

Court File No. 16-cv-1054 (WMW/DTS)

Plaintiff,

v.

FEDERAL INSURANCE COMPANY,  
an Indiana corporation, and ACE  
AMERICAN INSURANCE COMPANY,  
a Pennsylvania corporation,

**DECLARATION OF TERRENCE J.  
FLEMING IN SUPPORT OF  
MOTION FOR TRIAL  
DEPOSITIONS**

Defendants.

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I, Terrence J. Fleming, declare as follows:

1. I am an attorney at Fredrikson & Byron, P.A. and am one of the attorneys representing Defendants Federal Insurance Company and ACE American Insurance Company (collectively, “Federal”) in this case.

2. Attached as **Exhibit A** is a true and correct copy of Federal’s Supplemental Disclosures made on January 28, 2019.

3. Attached as **Exhibit B** is a true and correct copy of a printout from LinkedIn of Zorica Todorovic’s profile.

4. Attached as **Exhibit C** is a true and correct copy of Zorica Todorovic’s declaration dated August 20, 2019. To the best of Federal’s knowledge, Zorica Todorovic currently resides in Ontario, Canada.

5. Attached as **Exhibit D** is a true and correct screenshot of a LinkedIn message I sent to Zorica Todorovic on October 12, 2022, requesting a call to discuss this case and confirming that I called her via telephone and left her a voice message regarding the same.

6. Attached as **Exhibit E** is a true and correct copy of an email I sent to Zorica Todorovic on October 21, 2022, requesting a call to discuss this case.

7. On October 21, 2022, my colleague Leah Janus and I met and conferred by telephone with Heather Kliebenstein, counsel for Fair Isaac Corporation (“FICO”), regarding the taking of trial depositions for Mark Berthiaume and Zorica Todorovic. We explained that Mr. Berthiaume was unwilling to appear at trial to testify live, in-person and has additionally expressed concerns about traveling during the pandemic due to his spouse’s medical condition. Furthermore, we explained that we have repeatedly attempted to contact Ms. Todorovic via email and telephone but have received no response. FICO refused to agree to Federal taking trial depositions of Mr. Berthiaume and Ms. Todorovic.

8. Federal also raised the issue of trial depositions during a status conference in June 2020.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Dated: October 25, 2022

s/ Terrence J. Fleming

Terrence J. Fleming  
Hennepin County, Minnesota